



# ADMINISTRATIVE MANUAL

<b>SUBJECT:</b> GRIEVANCE AND COMPLAINT PROCEDURES Investigations	<i>Chapter:</i> 12
	<i>Section:</i> 12.2
<b>REFERENCES:</b> RSMo 36.410	<i>Page:</i> 1 of 5
	<i>Revised:</i> 4 - 2 - 04

## INVESTIGATIONS

### I. PURPOSE:

To set forth the internal investigative process and require employees to cooperate with all authorized internal and external investigations.

### II. SCOPE:

Departmentwide

### III. POLICY:

It is the policy of the Department to conduct internal investigations in a thorough, confidential, and expeditious manner; and to cooperate and/or assist with authorized investigations by other agencies.

### IV. DEFINITIONS:

**Confidential:** Information to be shared with only those with a need to know.

**Investigation:** A formal gathering of facts, interviews, and evidence to determine what happened in a given situation, conducted by authorized personnel.

**Retaliation:** Negative treatment in the terms and conditions of employment resulting from filing a complaint or grievance or participating in an investigation.

**Documents:** Documents include, but are not limited to, the initial allegations, witness statements, findings, and recommendations made as a result of the investigation.



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## V. GENERAL PROVISIONS:

### A. Investigations

1. Internal investigations may be conducted by the Office of Personnel (OP) or managers/supervisors on behalf of the Office of the Department Director and/or a division/center director.
2. An investigation may be the result of a grievance, a formal complaint, management concerns, or at the behest of another agency or entity. All formal complaints of discrimination will be investigated in accordance with DHSS Administrative Manual Policy 12.6, "Complaint Procedure." The need for other investigations will be based on request from Department management.
3. Any employee who has information pertinent to an investigation will be interviewed (subject to the knowledge of the investigator(s) or management that such information exists). Written statements may be gathered in addition to or in lieu of an interview.
4. Allegations brought against any employee must be shared with the employee if an investigation is conducted, unless otherwise restricted by law (may apply to some external investigations). The employee will be given an opportunity to answer all allegations. If it is deemed necessary by the investigating officer, a copy of the allegations may be provided to the parties directly involved in the investigation.
5. All investigations will be conducted in a timely manner.
6. The findings of an investigation and the recommendations as appropriate will be provided in writing to the Department Director, Chief Operating Officer, Deputy Department Director, division or center director as appropriate. Investigations, which do not relate to civil rights issues, may not have recommendations.



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7. The division/center director, Deputy, Chief Operating Officer, or Department Director is responsible for communicating the investigative results to the appropriate individuals. The investigator may also communicate with the involved parties, when appropriate.

### B. Files:

1. Information gathered as the result of an investigation, along with all other pertinent documents, shall be maintained in an investigative file. The investigative file shall remain separate from any personnel files.
2. Any portion of an investigation which supports disciplinary actions being brought against an employee may be included in that employee's personnel file.

### C. Confidentiality:

1. Information gathered as a part of an investigation shall be considered confidential in accordance with applicable law. Accordingly, all participants (including those serving as Union or co-worker representation as outlined in V.D., below) are expected to maintain confidentiality, and are subject to disciplinary action for failure to do so.
2. Employees interviewed in the course of the investigation may be required to sign a "Notice of Responsibility in an Investigation" (see Attachment A). Failure to abide by the "Notice of Responsibility in an Investigation" may result in disciplinary action. Refusal to sign the "Notice of Responsibility in an Investigation" shall be witnessed by an appropriate supervisor/manager, who shall sign witnessing that the employee received a copy of the "Notice of Responsibility in an Investigation" and refused to sign. Refusal to sign will not mitigate an employee's responsibility to abide by the requirements contained therein.



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### D. Cooperation:

It is the obligation of ALL Department staff to participate in and cooperate fully, when requested, with an investigation. Employees MUST answer all questions truthfully.

If an employee reasonably suspects that a meeting or interview held as part of an investigation will lead to disciplinary action, the employee shall be entitled (upon the employee's specific request) to Union or co-worker representation. Exception: If management is CERTAIN that any eventual disciplinary action related to the investigation will not result in discipline above the level of a written reprimand (i.e., Notice of Unacceptable Conduct, Conditional Employment, Suspension, Involuntary Demotion, Dismissal) Union/co-worker representation is not an entitlement.

Withholding information relevant to the investigation or failure to provide full disclosure of the facts when requested to do so may result in disciplinary action.

The Revised Statutes of Missouri (RSMo) Section 36.410, state: "If any employee in a position subject to this law shall willfully refuse or fail to appear before any court or judge, any legislative committee, or any officer, board or body authorized to conduct any hearing or inquiry, or having appeared shall refuse to testify or answer any question relating to the affairs or government of the state or the conduct of any state officer or employee on the ground that his testimony or answers would tend to incriminate him, or shall refuse to waive immunity from prosecution on account of any matter about which he may be asked to testify at any such hearing or inquiry, he shall forfeit his position and shall not be eligible for appointment to any position under the provisions of this chapter."

### E. Retaliation:

Retaliation against any person (includes employees, customers, and contracted providers) cooperating in an investigation is prohibited. If an employee believes they have experienced negative actions as the result of filing a complaint or grievance or participating in an investigation, the employee shall report such actions to the OP Human Relations Officer.



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F. Complaint/Grievance Procedure:

Any employee wishing to file a Complaint of Discrimination or a Grievance should refer to Chapter 12 of the Department Administrative Manual or contact OP.

Prepared by:

Approved by:

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Chief, Office of Personnel

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Chief Operating Officer